



9110-04-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG-2014-0950]

RIN 1625-AA00

Safety Zone: Carquinez Strait Cable Repair Operation, Martinez, CA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone in the navigable waters of Carquinez Strait near Martinez, CA in support of a cable repair operation. This temporary safety zone is established to ensure the safety of the mariners and vessels from the dangers associated with the cable repairs being done in Carquinez Strait. Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without the permission of the Captain of the Port or a designated representative.

DATES: This rule is effective without actual notice from [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] until 8:00 p.m. on December 5, 2014. For the purposes of enforcement, actual notice will be used from 6 a.m. on November 4, 2014,

until [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Documents mentioned in this preamble are part of docket USCG-2014-0950. To view documents mentioned in this preamble as being available in the docket, go to

<http://www.regulations.gov>, type the docket number in the "SEARCH" box and click "SEARCH." Click on Open Docket Folder on the line associated with this rulemaking. You may also visit the Docket Management Facility in Room W12-140 on the ground floor of the Department of Transportation West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or e-mail Lieutenant Junior Grade Joshua Dykman, U.S. Coast Guard Sector San Francisco; telephone (415) 399-3585 or e-mail at D11-PF-MarineEvents@uscg.mil. If you have questions on viewing or submitting material to the docket, call Program Manager, Docket Operations, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS	Department of Homeland Security
FR	Federal Register
NOAA	National Oceanic and Atmospheric Administration
PATCOM	U.S. Coast Guard Patrol Commander

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule

without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are "impracticable, unnecessary, or contrary to the public interest." Under 5 U.S.C. 553(b)(B), the Coast Guard finds that it would be impracticable to publish a notice of proposed rulemaking (NPRM) with respect to this rule because immediate action is necessary to protect the public from the dangers associated with the cable repair operation. The cable repairs in the Carquinez Strait are the result of a previous emergency anchorage and are an unforeseeable event that poses an immediate danger to mariners.

For the same reasons, under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the Federal Register. Providing 30 days notice and delaying its effective date would be impracticable because immediate action is needed to protect persons, property, and infrastructure from potential damage and safety hazards associated with the cable repair operation in Carquinez Strait in Martinez, CA.

B. Basis and Purpose

The legal basis for the proposed rule is 33 U.S.C 1231; 46 U.S.C Chapter 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05-1, 6.04-1, 6.04-6, 160.5; Public Law 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1, which collectively authorize the Coast Guard to establish safety zones.

On October 10, 2014, Coast Guard Sector San Francisco received notification that the Manson 71 Barge would be conducting cable repairs following an anchoring incident in Carquinez Strait. The cable repairs are necessary to ensure that power is not lost to the San Francisco Bay area in the future due to damage done to the cable during the anchoring incident. The safety zone is necessary to protect people, vessels, and other property from the hazards associated with the cable repair operations in Carquinez Strait.

C. Discussion of the Final Rule

The Coast Guard is establishing a temporary safety zone in navigable waters of the Carquinez Strait enclosed within the following points: 38° 02'26"N, 122° 07'41"W; 38° 02'13"N, 122° 07'34"W; 38° 02'07"N, 122° 07'48"W; and 38° 02'15"N, 122° 08'03"W (NAD83) during the cable repair operations following an anchoring incident in Carquinez Strait. Anchors will be placed at each of the coordinates and the Manson 71 Barge will be tied

off in a four-point configuration. This will allow the barge to remain on top of the cable and move up and down to conduct all repairs. This rule is effective and enforceable from 6 a.m. on November 4, 2014 until 8 p.m. on December 5, 2014.

Unauthorized persons or vessels are prohibited from entering into, transiting through, or remaining in the safety zone without the permission of the Captain of the Port or a designated representative. The effect of the safety zones will be to restrict navigation in the vicinity of the Manson 71 Barge while the vessel is conducting a cable repair operation. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the restricted area. These regulations are needed to keep people, vessels, and other property safe by preventing interaction between the Manson 71 Barge and small craft during restricted maneuvering and to ensure safety of life on the navigable waters.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes and executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and

Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders.

We expect the economic impact of this rule will not rise to the level of necessitating a full Regulatory Evaluation. The safety zones are limited in duration, and are limited to a narrowly tailored geographic area. In addition, although this rule restricts access to the waters encompassed by the safety zones, the effect of this rule will not be significant because the local waterway users will be notified via public Broadcast Notice to Mariners to ensure the safety zones will result in minimum impact. The entities most likely to be affected are waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601-612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term "small entities" comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and

governmental jurisdictions with populations of less than 50,000.

This rule may affect owners and operators of waterfront facilities, commercial vessels, and pleasure craft engaged in recreational activities and sightseeing. These safety zones would not have a significant economic impact on a substantial number of small entities for the following reasons. These safety zones would be activated, and thus subject to enforcement, for a limited duration. When the safety zones are activated, vessel traffic may coordinate movements around the safety zones by contacting PATCOM on VHF channel 16. The maritime public will be advised in advance of these safety zones via Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the FOR FURTHER INFORMATION CONTACT, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business

Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1-888-REG-FAIR (1-888-734-3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the "FOR FURTHER INFORMATION CONTACT" section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or

vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531-1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule

and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a "significant energy action" under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023-01 and Commandant Instruction M16475.1D, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321-4370f), and have concluded this action is one of a category of actions that do not individually or cumulatively have a

significant effect on the human environment. This rule involves a safety zone of limited size and duration. This rule is categorically excluded from further review under paragraph 34(g) of Figure 2-1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under ADDRESSES. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR Part 165 as follows:

PART 165- REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05-1(g), 6.04-1, 6.04-6, and 160.5; Pub. L. 107-295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

2. Add § 165.T11-675 to read as follows:

§ 165.T11-675 Safety zone; Carquinez Strait Cable Repair
Operation, Martinez, CA

(a) Location. This temporary safety zone is established for the navigable waters of Carquinez Strait near Martinez, CA as depicted in National Oceanic and Atmospheric Administration (NOAA) Chart 18656. The temporary safety zone in the navigable waters of the Carquinez Strait is enclosed within the following points: 38° 02'26"N, 122° 07'41"W; 38° 02'13"N, 122° 07'34"W; 38° 02'07"N, 122° 07'48"W; and 38° 02'15"N, 122° 08'03"W (NAD83).

(b) Enforcement period. The zone described in paragraph (a) of this section will be enforced from 6 a.m. on November 4, 2014 until 8 p.m. on December 5, 2014. The Captain of the Port San Francisco (COTP) will notify the maritime community of periods during which this zone will be enforced via Broadcast Notice to Mariners in accordance with 33 CFR 165.7.

(c) Definitions. As used in this section, "designated representative" means a Coast Guard Patrol Commander, including a Coast Guard coxswain, petty officer, or local officer designated by or assisting the COTP pursuant to a Memorandum of Understanding with that agency, to assist in the enforcement of the safety zone.

(d) Regulations. (1) Entry into, transiting or anchoring within these safety zones is prohibited unless authorized by the COTP or a designated representative.

(2) The safety zones are closed to all vessel traffic, except as may be permitted by the COTP or a designated representative.

(3) Vessel operators desiring to enter or operate within the safety zones must contact the COTP or a designated representative to obtain permission to do so. Vessel operators given permission to enter or operate in the safety zones must comply with all directions given to them by the COTP or a designated representative. Persons and vessels may request permission to enter the safety zones on VHF-16 or through the 24-hour Command Center at telephone (415) 399-3547.

Dated: October 28, 2014

Gregory G. Stump,
Captain, U.S. Coast Guard,
Captain of the Port San Francisco.

[FR Doc. 2014-26754 Filed 11/12/2014 at 8:45 am; Publication Date:
11/13/2014]